

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 1137 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 - No

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PRAVINKUMAR RAMANBHAI RAVAL

Versus

STATE OF GUJARAT

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Appearance:

MR HIMANSU M PADHYA for appellant  
MR KP RAVAL, APP for Respondent No. 1

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CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 09/02/99

C.A.V. JUDGEMENT

The present appellant-original accused No.1 has preferred this appeal against the judgment and order passed by the learned Addl. Sessions Judge, Panchmahals at Godhra on 1-12-1998 in Sessions Case No.84 of 1995 (Atrocity) whereby he was ordered to undergo simple imprisonment for six months and to pay a fine of Rs.250/-, in default, to suffer simple imprisonment for

fifteen days for the offences punishable under secs.323 and 504 of Indian Penal Code.

2. The case of the appellant in short is that on 15-11-1994 at about 5 p.m. when the complainant was doing the agricultural work, the present appellant, who was smoking cigarette was asked not to smoke at the place where grass was kept. On this, appellant got excited and gave abuses. When complainant requested him not to use abusive words, appellant gave stick blow on his head. On hearing this, other persons came and threw brick pieces on the complainant as a result of which, complainant was injured. Thereafter, appellant alongwith others were charged under secs.337,323,504 and 506(2) of IPC. Accused pleaded not guilty to the charge and claimed to be tried.

3. After hearing the arguments of both the sides, the learned Addl. Sessions Judge has convicted the accused against which, the present appeal is preferred.

4. I have heard learned counsel for the appellant Mr.H.M.Padhy and learned APP for the State. Mr.Padhy has mainly argued that there are lot of material contradictions on record between the oral evidence of the complainant and his wife. He has also argued that injury caused to the complainant is not properly proved by the prosecution. Moreover, the witnesses are interested witnesses. Drawing my attention towards the oral evidence of complainant and his wife and also the oral evidence of witnesses Balvantbhai Punjabhai, Somabhai Punjabhai and Dr.Ishwarbhai Pandya, he has argued that prosecution has failed to prove their case against the present appellant beyond reasonable doubt.

5. Learned APP for the State, drawing my attention towards a certificate and evidences of witnesses, has argued that prosecution has proved their case against the accused beyond reasonable doubt and nothing has come out in the cross-examination which favours the appellant-accused. He has further argued that there are no material contradictions which help the accused to prejudice his case.

6. I have gone through the evidence which was been shown to me by learned counsel for the respective parties, more particularly the evidence of complainant, his wife, Balvantbhai Punjabhai, Somabhai Punjabhai, Dr.Ishwarbhai Pandya, etc. It has come out from the oral evidence of complainant that present appellant-accused No.1 has given a blow of wooden blunt substance on the

head of complainant-victim, which gets corroboration from the evidence of Maniben, FIR and also the oral evidence of Dr.Ishwarbhai Pandya, who issued a certificate to that effect. It also gets support from the oral evidence of Balvantbhai Punjabhai and Rameshbhai Punjabhai. As I have stated earlier, nothing has come out from the cross-examination which goes against the prosecution and in favour of the accused.

7. I am of the view that prosecution has proved its case beyond reasonable doubt and I find no necessity to interfere with the order passed by the learned Additional Sessions Judge.

8. I am not discussing the evidence of each witness in detail in view of the observations made by the Hon'ble Apex Court in the case of STATE OF KARNATAKA VS. HEMAREDDY reported in AIR 1981 SC 1417 which reads as under:-

".... This court has observed in Girija Nandini Devi V. Bigendra Nandini Chaudry (1967) 1 SCR 93: (AIR 1976 SC 1124) that it is not the duty of the appellate court when it agrees with the view of the trial Court on the evidence to repeat the narration of the evidence or to reiterate the reasons given by the trial Court expression of general agreement with the reasons given by the Court the decision of which is under appeal, will ordinarily suffice."

9. Under the above circumstances, appeal is required to be dismissed and is accordingly dismissed. Notice is discharged. Accused is ordered to surrender to judicial custody forthwith for serving out remaining sentence, if any. Bail bond is ordered to be cancelled.

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